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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,483	12/13/2001	Atsushi Okada	216823USOXPCT	1812
22850	7590	07/28/2004		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/009,483	OKADA ET AL.	
	Examiner	Art Unit	
	Lien T Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed 6/15/04, applicant amended the claims 1, 6 and 7 to include the limitation "in the absence of added liquid" or "free of added liquid". This limitation is not supported by the original disclosure. The specification and original claims do not disclose anything about mixing in the absence of added liquid or free of added liquid.

Claims 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Coleman et al.

Coleman et al disclose functional bread crumbs comprising a dried mixture of bread crumbs and powdery starch and powdery protein are adhered to the crumbs. Flavoring such as sugar is also used (see col. 3 lines 40-45 and col. 4 lines 35-45).

The protein and starch are disclosed to be dry ingredients; thus, they are powdery. The limitation of fresh bread crumb is a difference in the processing step in selecting different starting material. However, the final product is a dried mixture and this is what Coleman et al disclose; they disclose a dried mixture which is the same as the claimed product. The final bread crumb product does not have any added liquid.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rispoli et al in view of Bernachi et al.

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Rispoli et al. disclose a process of making a bread crumb composition. The process comprises the steps of adhering an adhesive comprising a protein in amount of 1-20% and up to 10% starch. The composition may also contain seasonings such as salt, sugar, garlic etc... in any amount of up to 15%. (see columns 3-4)

The amounts of protein, starch and sugar fall within the ranges claimed. Rispoli does not teach applying the adhesive to fresh bread crumbs and then drying.

Bernacchi et al teach to apply protein to bread crumbs. They teach the protein can be applied by coating the protein dispersion to wet crumb and then drying (see col. 7 lines 23-26).

While Rispoli et al teach different methods of coating the protein, starch and sugar onto the crumbs, they also disclose other means may be employed so long as the adhesive is applied and adhered to the crumbs and the resulting crumb composition is dried (see col. 3 lines 50-60). It would have been obvious to one skilled in the art to use alternative method such as the one taught by Bernacchi et al to apply the adhesive onto the crumbs. With respect to the method claim, the limitation of "in the absence of added liquid" does not define over the prior art because both Bernacchi et al and Rispoli et al do not teach adding liquid to the bread crumb. With respect to the product claims, the final product in Rispoli et al is a dried mixture and thus, it is free of added liquid. It would have been obvious to use dried ingredients if one wants to shorten the drying time. It would have been obvious to dry the crumbs after adhering the adhesive if moist crumbs are used because the crumbs need to be dried as required by Rispoli et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunday, July 25, 2004


LIEN TRAN
PRIMARY EXAMINER
